

EXHIBIT 2-4

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STEVEN J. BENNETT,)
)
 Plaintiff)
)
-vs-)
)
TROOPER JAIME LOPEZ)
and TROOPER GABRIEL L.)
PADUCK,)
)
 Defendants x No. 3:17-cv-02031-ARC

DEPOSITION TESTIMONY OF

TROOPER GABRIEL L. PADUCK

FRIDAY, MARCH 1, 2019

OFFICE OF THE ATTORNEY GENERAL
417 LACKAWANNA AVENUE - SUITE 203
SCRANTON, PENNSYLVANIA

TERESA A. CROSSIN, RMR
NOTARY PUBLIC

KEYSTONE COURT REPORTING AGENCY, INC.
4099 BIRNEY AVENUE, SUITE 9
MOOSIC, PA 18507
(570) 558-3011 (800) 570-3773
FAX (570) 558-3014

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COUNSEL PRESENT:

On behalf of the Plaintiff:

LAMPMAN LAW
 BY: LEONARD GRYSKEWICZ, JR., ESQ.
 2 Public Square
 Wilkes-Barre, PA 18701

On behalf of the Defendant Lopez:

HARRY T. COLEMAN, ESQ.
 41 North Main Street
 Carbondale, PA 18407

On behalf of the Defendant Paduck:

PENNSYLVANIA STATE POLICE
 BY: ANDREW M. RONGAUS, Asst. Gen. Counsel
 Office of Chief Counsel
 1800 Elmerton Avenue
 Harrisburg, PA 17110

STIPULATIONS

It was stipulated and agreed by and between counsel that the reading, signing, sealing and filing of the deposition transcript be waived.

It was further agreed that all objections except as to the form of the question will be reserved until the time of trial.

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T R O O P E R G A B R I E L L. P A D U C K ,

WAS CALLED, AND HAVING BEEN DULY SWORN,

WAS EXAMINED AND TESTIFIED AS FOLLOWS:

EXAMINATION BY MR. GRYSEWICZ:

Q. Trooper Paduck, I am going to give you the same instructions. My name is Lenny Gryskewicz. I represent Mr. Bennett in this action.

Have you ever been deposed before, sir?

A. No, I have not.

Q. Okay. So, I am going to give you some ground rules. I am sure your attorney went over them with you.

I will be asking you questions today regarding an incident that happened on May 12, 2017, in Judge Plummer's magisterial district courtroom that is the subject of this case. My intent is not to harass you, embarrass you, or annoy you with questions, it is simply to learn what you know.

I am sure I am going to ask an unartfully worded question throughout this deposition. If you don't understand what I am asking, please ask me to rephrase the question or tell me you don't understand it, I will rephrase the question.

1 Please give verbal answers to all of
2 your questions so the stenographer can accurately
3 take down the record. I would ask that you wait
4 until I finish asking my question before you answer
5 and I will provide you the same courtesy and wait
6 until you finish answering to provide my next
7 question.

8 If at any time you need a break, please
9 let me know, we can take a break. I would just ask
10 that you answer any question currently posed to you
11 before we start the break.

12 All right. Do you have any questions
13 about that, sir?

14 A. No, I do not.

15 Q. All right. What is the highest level
16 of education you have obtained?

17 A. High school and then some college.

18 Q. And where did you go to college at?

19 A. Luzerne County Community College.

20 Q. Do you know about how many years you
21 went there?

22 A. Three semesters, so, approximately, a
23 year and a half.

24 Q. What did you study when you were there?

25 A. Nuclear engineering technology.

1 Q. What did you do for employment before
2 you became a police officer?

3 A. State Trooper or police officer, in
4 general?

5 Q. Police officer, in general.

6 A. Well, I became a police officer when I
7 was 18 years old.

8 Q. So, being a police officer was your
9 first real job?

10 A. Correct.

11 Q. Do you remember what year it was when
12 you first became a police officer?

13 A. I graduated the Act 120 from Lackawanna
14 County College in the beginning of 2009, end of 2008.
15 I believe it was January of 2009.

16 Q. Where were you a police officer before
17 you became a State Trooper?

18 A. Jackson Township and Dallas Borough.

19 Q. About how long were you a local police
20 officer?

21 A. Approximately four, four and a half
22 years.

23 Q. When did you attend the Pennsylvania
24 State Police Academy?

25 A. Well, I started the 137th cadet class

1 in August of 2013, completed 12 weeks there, and was
2 sent home due to an injury to my ankle. And I went
3 back in the very next class on January 6th of 2014.

4 Q. You completed it then with the
5 January 6th of 2014 class?

6 A. That's correct. I graduated in July of
7 2014.

8 Q. And could you describe the training
9 that you underwent to become a Pennsylvania State
10 Trooper?

11 A. It is a 27-week program where you are
12 taught traffic law, crimes code, use of force, police
13 skills, such as proper search and seizure techniques,
14 entry buildings, firearms, physical fitness, a vast
15 array of things.

16 Q. And you stay at the place you are doing
17 the academy, correct, for those 27 weeks?

18 A. That is correct. You are given some
19 weekends to go home. It averages out to be
20 approximately every other, every third weekend.

21 Q. And you have requirements to undergo
22 new training every year, correct?

23 A. That's correct.

24 Q. Could you describe what those
25 requirements are?

1 A. Yes, we have our PSP legal updates,
2 which some of which is now done via Power Point. And
3 then we also have our mandatory inservice training,
4 which is something that you attend in person eight
5 hours annually.

6 Q. And when was the last time you
7 underwent this training?

8 A. Well, I just completed the legal
9 updates Power Point, approximately an hour and a half
10 of training. That was the end of January this year
11 I completed that. And then the actual inservice
12 training which we attend will be scheduled some time
13 throughout the year.

14 Q. Out of curiosity, what did they go over
15 with you in the legal updates?

16 A. In the Power Point?

17 Q. Yes.

18 A. Everything, all new laws that changed,
19 gradings that have changed. It is a lot of case law
20 to get you up to speed on everything.

21 Q. When was the last time you underwent
22 training before May 12, 2017?

23 A. Before May 12, 2017?

24 Q. Yes, sir.

25 A. I could not tell you.

1 Q. You don't remember?

2 A. I have no idea.

3 Q. But it is safe to assume that you did
4 your annual training in 2017?

5 A. That is correct.

6 Q. How long were you stationed in Troop P
7 in Tunkhannock?

8 A. I have been in Troop P since
9 graduating. Tunkhannock, I was stationed there from
10 June -- I want to say June 20, 2016, until
11 September 9, 2017.

12 Q. Where are you stationed now, sir?

13 A. I am currently stationed in
14 Shickshinny, Troop P.

15 Q. How long did you work with Trooper
16 Jaime Lopez?

17 A. The entire time I was in Tunkhannock,
18 for the most part.

19 Q. You were partners with Trooper Lopez?

20 A. I was.

21 Q. And what shift did you and Trooper
22 Lopez normally work?

23 A. Well, we were one of the permanent
24 midnight crews, as they call us, so, we would work a
25 ten-day stretch. Out of those ten days, you worked

1 seven overnight midnight shifts and then three either
2 a.m. dayshifts or p.m. afternoon shift.

3 Q. Okay. Were you ever involved in a
4 lawsuit before?

5 A. I was not, no.

6 Q. Okay. So, you were never a witness,
7 never a Plaintiff or Defendant?

8 A. No, sir.

9 Q. Okay. How many times do you estimate
10 that you were in Judge Plummer's courtroom before May
11 12, 2017?

12 A. I have no idea, sir, numerous.

13 Q. So, you are very familiar with the
14 courtroom?

15 A. Yes, sir.

16 Q. Did you know Steven Bennett prior to
17 May 12, 2017?

18 A. Yes, I was familiar with who he was.

19 Q. Could you describe to me how you knew
20 him?

21 A. Mr. Bennett actually graduated, I
22 believe, two years ahead of me in high school; so, I
23 knew who he was from seeing him at school. And he
24 was also a Wyoming County corrections officer, so I
25 would see him occasionally dropping off prisoners.

1 Q. Did you knowing Mr. Bennett prior to
2 May 12, 2017, affect how you acted that day in any
3 way?

4 A. No.

5 Q. When did you arrive at the Tunkhannock
6 PSP barracks on May 12, 2017?

7 A. Sometime between 8:00 p.m. and
8 9:00 p.m.

9 Q. What was the normal time you were
10 supposed to go in to work?

11 A. 10:00 p.m.

12 Q. Why did you get called in early that
13 day?

14 A. I believe we had a murder suicide in
15 the Nicholson area on that day, so, everybody was
16 there. Once incidents started coming, they called us
17 to come in early to assist.

18 Q. What were you doing before you got
19 called in to work?

20 A. Honestly, I don't know. I believe
21 watching a movie with my now wife.

22 Q. Did you have any alcoholic beverages to
23 drink before you went in to work?

24 A. No.

25 Q. When you arrived at the Tunkhannock

1 Pennsylvania State Police barracks, Mr. Bennett was
2 already in custody there, correct?

3 A. That's correct.

4 Q. And could you describe how Mr. Bennett
5 was restrained when you got to the barracks?

6 A. He was seated on the prisoner bench in
7 the patrol room, as Trooper Lopez described. He was
8 handcuffed in front and I believe the ankle shackle
9 was also cuffed to his handcuffs.

10 Q. And I know you said as Trooper Lopez
11 described. For the record here, let's just assume
12 that we haven't done Trooper Lopez' deposition,
13 that's why I am asking you some repeat questions that
14 I am sure are going to be the same. Just for the
15 record, I have to ask you the same questions. So, I
16 would ask you to answer based on your knowledge and
17 if you know something else, feel free to add it.

18 The way Mr. Bennett was restrained to
19 the bench when you got to the PSP barracks, is that
20 the normal way that prisoners or people in custody
21 are restrained when they are taken to your barracks?

22 A. Yes.

23 Q. At some point Trooper Levanavage asked
24 you and Trooper Lopez to transport Mr. Bennett to his
25 preliminary arraignment, right?

1 A. That's correct.

2 Q. Okay. Did you change the way Mr.
3 Bennett was restrained to take him to the
4 arraignment?

5 A. I do not recall who did it. I am sure
6 I was present when it happened. I couldn't tell you
7 with 100 percent certainty whether I put the belt on
8 him, Trooper Levanavage put the belt on him or
9 Trooper Lopez did.

10 Q. Understood. So, could you describe how
11 Mr. Bennett was restrained in order to transport him
12 to the preliminary arraignment?

13 A. Yes. I would imagine it was leather
14 then. We have leather and a fabric, like a nylon
15 transport belt. I believe a leather transport belt
16 was placed around his waist and then one handcuff is
17 attached to his wrist, the other open handcuff is
18 placed through a D-ring and then attached to the
19 other wrist.

20 Q. And is that the normal way that
21 prisoners or individuals in custody are restrained
22 when they are transported?

23 A. If they are leaving the barracks and
24 then going somewhere, yes, that's generally what we
25 do just out of comfort for the individual. But if

1 you don't have a transport belt to use, then they are
2 handcuffed behind the back.

3 Q. Okay. Why was it decided that a
4 transport belt would be used on Mr. Bennett that
5 night?

6 A. Because one was readily available.

7 Q. Once Mr. Bennett was placed in the
8 transport belt and handcuffed, were those restraints
9 ever removed from him from the time you left the
10 Pennsylvania State Police barracks until he was
11 lodged at the Wyoming County Prison that night?

12 A. I believe when -- I believe it was
13 altered when Mr. Bennett was in the ambulance.

14 Q. Okay. So, beyond when Mr. Bennett was
15 receiving medical treatment that night, did you
16 change the restraints that were on Mr. Bennett at
17 all?

18 A. I don't believe so. Every now and then
19 we may remove one handcuff for the Defendant to sign
20 paperwork. Usually, we do not, though, because you
21 are still able to get your hands up and sign. So,
22 honestly, I do not recall whether or not it was ever
23 changed before medical attention was provided.

24 Q. Do you recall freeing one of Mr.
25 Bennett's hands for him to sign paperwork that night?

1 A. I do not, no.

2 Q. And then you and Trooper Lopez then
3 transported Mr. Bennett from the Pennsylvania State
4 Police barracks to Judge Plummer's courtroom,
5 correct?

6 A. Correct.

7 Q. You would agree that you had no
8 problems with Mr. Bennett while he was being
9 transported from the barracks to the magisterial
10 court?

11 A. Yes, I would say that.

12 Q. Okay. When you first arrived at the
13 magisterial court, where did you take Mr. Bennett?

14 A. I believe I walked Mr. Bennett in and
15 sat him at the Defendant's table.

16 Q. While you were waiting for the Judge,
17 did you have any problems with Mr. Bennett?

18 A. No, I did not have any problems with
19 him.

20 Q. Okay. What did you and Mr. Bennett
21 speak about while you were waiting for Judge Plummer
22 to come out?

23 A. I know I told Mr. Bennett to relax and
24 not get emotional the way he did at the barracks in
25 our presence, because I told him that is going to do

1 nothing but upset the Judge. There may have been
2 some other small talk, but I couldn't tell you
3 exactly what we spoke about.

4 Q. Would you agree with me that you told
5 the Pennsylvania State Police internal affairs
6 investigators that Judge Plummer began screaming at
7 Mr. Bennett after he came out of his office?

8 A. Not immediately but that did transpire,
9 yes.

10 Q. Okay. And how long do you believe that
11 transpired for?

12 A. Not very long; I mean, I would say
13 Judge Plummer yelled at Mr. Bennett numerous times,
14 but as soon as he yelled, he then calmed down.

15 Q. How would you characterize the
16 interactions between Judge Plummer and Mr. Bennett
17 that night?

18 A. At first, I would say he was very
19 typical and normal. But throughout, I would say it
20 got tense between the two of them.

21 Q. At some point during Mr. Bennett's
22 interactions with Judge Plummer, you walked over and
23 stood next to Mr. Bennett, right?

24 A. I believe so.

25 Q. Do you remember why you walked over and

1 stood next to Mr. Bennett?

2 A. I do not. I would have to see at what
3 point this occurred, whether it was to assist with
4 paperwork, I couldn't tell you.

5 Q. Okay. Do you recall Mr. Bennett
6 standing up at the Defendant's table while he was
7 speaking to Judge Plummer?

8 A. Not offhand, but there is video, so, if
9 he did, then I am sure it happened.

10 Q. Okay. But it is your testimony right
11 now that you don't necessarily recall that off the
12 top of your head?

13 A. Yes. There are several facts that I
14 can honestly say that I do not recall every instance
15 of what transpired.

16 Q. Understood. Would you agree that Mr.
17 Bennett was leaning forward towards Judge Plummer at
18 various times throughout the arraignment?

19 A. Yes.

20 Q. Would you agree that you were standing
21 next to Mr. Bennett when Trooper Lopez first placed
22 his left hand on Mr. Bennett's shoulder?

23 A. I believe I was.

24 Q. Okay. And then would you agree that
25 Trooper Lopez then kind of leaned in front of you

1 when he placed his right hand on Mr. Bennett's
2 shoulder and chest area?

3 A. Yes.

4 Q. And then you walked to the front of the
5 Defendant's table by Judge Plummer, right?

6 A. I believe so, yes.

7 Q. Okay. Do you remember why you kind of
8 got out of the way there and left that area?

9 A. Well, if anything occurred, there is
10 nothing I could do standing behind him and nothing I
11 could see.

12 Q. So, was the position in the front of
13 the table a better vantage point for you?

14 A. Yes, to see what is actually occurring,
15 yes.

16 Q. And I believe you previously stated
17 that you did not actually see Trooper Lopez strike
18 Mr. Bennett, is that right?

19 A. That's correct.

20 Q. Do you recall what you were doing when
21 Trooper Lopez did strike Mr. Bennett?

22 A. Yes, after all the paperwork was
23 presented to Mr. Bennett, I reached under my tie,
24 pulled out a pen and held it there for Mr. Bennett to
25 use to sign. It was apparent that he was not going

1 to sign and that's when I took my pen, looked down
2 and placed it back under my tie and that's when I
3 heard the noise.

4 Q. So, you heard Trooper Lopez strike Mr.
5 Bennett?

6 A. Correct.

7 Q. Could you describe what it sounded like
8 for us?

9 A. Sounded like somebody getting slapped,
10 skin on skin contact.

11 Q. Was it loud?

12 A. I wouldn't say it was necessarily loud
13 but I was able to hear it.

14 Q. Do you recall if Trooper Lopez made any
15 sounds when he struck Mr. Bennett?

16 A. I don't believe he made any sound,
17 other than speaking.

18 Q. Do you recall if Mr. Bennett made any
19 noises when he was struck by Trooper Lopez?

20 A. I know he had things to say right after
21 it happened but, no, I don't remember anything as it
22 happened.

23 Q. Would you agree that you also didn't
24 see what happened in the few seconds prior to Trooper
25 Lopez striking Mr. Bennett?

1 A. I would somewhat agree with that, yes.

2 Q. So, what is the last thing you remember
3 seeing prior to Trooper Lopez striking Mr. Bennett?

4 A. The last thing I remember is Trooper
5 Lopez placing his hands out telling Mr. Bennett don't
6 go any closer to the Judge. I remember him putting
7 his next hand out after Mr. Bennett leaned forward
8 again and Trooper Lopez again said don't go any
9 closer to the Judge. And I believe at that point I
10 saw Mr. Bennett look over at Trooper Lopez and then
11 stare at the Judge again and try to lean forward.
12 And that's when I said it is time to put my pen away.

13 Q. After you heard the slap, did you
14 immediately look up?

15 A. I would imagine, yes.

16 Q. So, did you observe Trooper Lopez grab
17 Mr. Bennett by his neck, chest area?

18 A. Yes.

19 Q. And restrain him, okay. Did you
20 observe the beginning of that?

21 A. I believe so.

22 Q. And then would you agree with me that
23 after Trooper Lopez grabbed Mr. Bennett by his neck
24 or chest area, you walked towards Trooper Lopez?

25 A. I would.

1 Q. Why did you approach Trooper Lopez at
2 that time?

3 A. Just in case I was needed to do
4 anything.

5 Q. And then would you agree with me that
6 you stood by Trooper Lopez while he was restraining
7 Mr. Bennett?

8 A. I believe so.

9 Q. For a few moments?

10 A. Okay.

11 Q. You only watched during this time,
12 right?

13 A. Correct.

14 Q. Did you say anything during this time?

15 A. I could not recall.

16 Q. Okay. Do you remember attempting to
17 help Trooper Lopez in any way?

18 A. No, he didn't need any help.

19 Q. Okay. And then after a few moments,
20 you would agree that you walked back to the front of
21 the Defendant's table while Trooper Lopez was
22 continuing to restrain Mr. Bennett?

23 A. I believe so.

24 Q. Okay. Do you remember why you walked
25 back to the front of the table at that point?

1 A. To collect all the paperwork that the
2 Judge had for Mr. Bennett.

3 Q. Okay. So, in the video, it appears you
4 were looking at papers on the table then; would you
5 agree with that?

6 A. I believe so, yes.

7 Q. So, would that paperwork be the
8 paperwork from the arraignment, most likely?

9 A. Yes, it would.

10 Q. So, at that time why did you make the
11 decision to collect the paperwork versus watch your
12 partner or Mr. Bennett at that time?

13 A. Because at that time I felt my partner
14 had things under control.

15 Q. Did you speak with Judge Plummer at all
16 at this time?

17 A. Not that I can recall, other than the
18 Judge saying here is all of his paperwork.

19 Q. Would you agree Judge Plummer never
20 really reacted to the interaction between Trooper
21 Lopez and Mr. Bennett?

22 A. Honestly, I couldn't tell you. I
23 wasn't focused on Judge Plummer when this was
24 occurring.

25 Q. Did you see Trooper Lopez release Mr.

1 Bennett?

2 A. I believe I did.

3 Q. How long do you believe that the
4 restraint Trooper Lopez used on Mr. Bennett lasted?

5 A. Seconds. I couldn't tell you for sure.
6 I believe Trooper Lopez already said 23 seconds, but
7 that's -- that would just be from him saying that.

8 Q. Would you agree with me that if you
9 believed you had a duty to intervene you would have
10 had time and opportunity to do so?

11 A. Possibly.

12 Q. Do you remember what Trooper Lopez was
13 saying to Mr. Bennett after he released him?

14 A. I just recall Trooper Lopez telling him
15 to calm down and relax.

16 Q. Do you recall what Mr. Bennett was
17 saying at that time?

18 A. Yes, at that time Mr. Bennett was
19 screaming you just hit me, you just hit me. I am in
20 restraints, typical PSP.

21 Q. And about how long do you estimate
22 that, you know, that whole interaction, the verbal
23 interaction between Trooper Lopez and Mr. Bennett
24 lasted?

25 A. That occurred the entire time that

1 Trooper Lopez was restraining Mr. Bennett telling him
2 to calm down, relax.

3 Q. Would you agree with me that there was
4 never a verbal argument between Mr. Bennett and
5 Trooper Lopez prior to Trooper Lopez' use of force?

6 A. I would have to agree, yes.

7 Q. After Trooper Lopez used force against
8 Mr. Bennett, did you examine Mr. Bennett for any
9 injuries in the courtroom?

10 A. I didn't observe any injuries, no.

11 Q. Did you look for any injuries, though?

12 A. I looked at him but I can't say I
13 pulled him aside and assessed him.

14 Q. Did you ask Mr. Bennett if he was
15 injured in any way in the courtroom?

16 A. In the courtroom, no, I did not.

17 Q. To your knowledge, did Trooper Lopez
18 ask Mr. Bennett if he was injured in the courtroom?

19 A. I don't know.

20 Q. After a few more moments then you would
21 agree that Trooper Lopez ordered Mr. Bennett to stand
22 up and leave the courtroom, is that right?

23 A. I believe so.

24 Q. Would you agree that Mr. Bennett obeyed
25 Trooper Lopez' command to stand up?

1 A. From what I recall, yes.

2 Q. And, to your knowledge, do you believe
3 Trooper Lopez had to use any force on Mr. Bennett to
4 get him to leave the courtroom?

5 A. I believe Trooper Lopez had to grab Mr.
6 Bennett and turn him around to truly start leaving,
7 but that was the extent of it.

8 Q. Okay. And then you followed Mr.
9 Bennett and Trooper Lopez out of the courtroom,
10 correct?

11 A. From what I recall, yes.

12 Q. And about how far do you think you were
13 behind them once you left the courtroom?

14 A. Once we left the courtroom, I would say
15 I was probably right alongside them, if not in front
16 of them, to open the door for them.

17 Q. And could you describe for us what
18 Judge Plummer's office looks like outside of the
19 courtroom?

20 A. Yes, as soon as you exit the courtroom,
21 you are in a hallway, there is, I believe, a small
22 little conference room directly ahead of you. If you
23 turn right and walk down that hallway, there is
24 another small conference room, there is a bathroom on
25 your right, and then you enter the waiting area, the

1 lobby area, and then the staff office would be to
2 your right. There is a wall with chairs to your left
3 and then the door.

4 Q. And as Trooper Lopez was escorting Mr.
5 Bennett out of Judge Plummer's office to the police
6 cruiser, did you observe any interactions between the
7 two of them?

8 A. At some point I do recall Trooper Lopez
9 pulling on the transport belt and telling Mr. Bennett
10 not to pull him.

11 Q. And do you recall stating to the
12 Pennsylvania State Police internal affairs that
13 Trooper Lopez ended up putting his foot down and yank
14 on the belt and said quit pulling me?

15 A. Yes.

16 Q. At what point did you find out there
17 was a camera in the courtroom?

18 A. When it was brought to my attention, I
19 believe, during the internal affairs interview.

20 Q. So, you didn't know there was a camera
21 in the courtroom that night?

22 A. No, I did not.

23 Q. You called Corporal Mitchell when you
24 exited Judge Plummer's office that night, right?

25 A. At some point I believe he was

1 contacted once we got to the hospital.

2 Q. Okay.

3 A. It could have been a little bit sooner.
4 I know I did call him.

5 Q. Do you remember what you told Corporal
6 Mitchell that night?

7 A. Yes, I advised him that we were either
8 already at the hospital or en route to the hospital
9 and gave him a brief rundown of what had occurred in
10 Judge Plummer's office.

11 Q. During Corporal Mitchell's interview
12 with the Pennsylvania State Police internal affairs,
13 he stated that you told him that Mr. Bennett lunged
14 at Judge Plummer and that is why Trooper Lopez used
15 force. Is that an accurate recitation of what you
16 told Corporal Mitchell that night?

17 A. It could be. I believe the words I
18 used were leaned towards the Judge.

19 Q. So, you don't necessarily remember
20 using the word "lunge"?

21 A. I do not. I very well could have, but
22 this was almost two years ago, so.

23 Q. Would you agree with me that Mr.
24 Bennett didn't lunge at Judge Plummer?

25 MR. COLEMAN: Note my objection.

1 You could answer, Trooper.

2 THE WITNESS: I would say he
3 definitely moved towards the Judge, so,
4 yeah, I guess you could classify that as
5 a lunge.

6 BY MR. GRYSKEWICZ:

7 Q. When you got to the patrol vehicle,
8 could you tell us what happened?

9 A. Trooper Lopez and I placed Mr. Bennett
10 in the passenger side rear seat of the police
11 vehicle.

12 Q. Okay.

13 A. I believe I was on the passenger side
14 with Mr. Bennett and I believe Trooper Lopez went to
15 the driver's side to grab the seat belt to fasten the
16 seat belt.

17 Q. Okay. And at this point when you
18 placed Mr. Bennett in the patrol vehicle, do you
19 remember that he started to complain his jaw hurt?

20 A. I do not remember him complaining of
21 his hurt jaw at that time.

22 Q. Okay. Do you remember him complaining
23 of any type of injuries or ailments?

24 A. I remember he began to hyperventilate
25 and started yelling, I need Tyler.

1 Q. Okay. And I need Tyler, to your
2 understanding, does that mean Tyler Memorial
3 Hospital?

4 A. That's what I assumed, yes.

5 Q. And that after Mr. Bennett began to
6 hyperventilate, is that when Trooper Lopez called the
7 ambulance?

8 A. That's correct.

9 Q. And did you observe Mr. Bennett
10 hyperventilating in the vehicle?

11 A. Yes, I turned around and looked at him.

12 Q. Could you tell me what he looked like
13 at that time?

14 A. I would say he was very frustrated and
15 breathing very heavily.

16 Q. About how long do you believe it took
17 the ambulance to arrive on scene?

18 A. 5 to 10 minutes. It wasn't a long
19 period of time.

20 Q. And did you have any input in the
21 decision to call an ambulance versus take Mr. Bennett
22 to the hospital yourselves?

23 A. I believe we just decided to call an
24 ambulance.

25 Q. And I know you said we decided, did you

1 and Trooper Lopez discuss calling an ambulance or is
2 it just what you two did at that time?

3 A. I honestly don't recall what kind of
4 discussion there was. I am sure we did discuss
5 something about it, but that's what was done.

6 Q. When the ambulance personnel arrived,
7 do you remember talking to anybody?

8 A. Oh, I am sure I did.

9 Q. Do you remember what you said to any of
10 the EMTs about what was happening?

11 A. Verbatim, no, I do not.

12 Q. Did you ride in the ambulance with Mr.
13 Bennett to the hospital?

14 A. Yes, I believe so.

15 Q. And why did you ride in the ambulance
16 with him?

17 A. Because at that point he was still a
18 prisoner.

19 Q. So, it is a requirement that a police
20 officer accompany somebody in the ambulance?

21 A. Right.

22 Q. And on the ride to the hospital in the
23 ambulance, what occurred inside of the ambulance?

24 A. He was treated by EMS personnel. And
25 by treated, I don't recall if they gave him an ice

1 pack in the ambulance or if that wasn't until we got
2 to the hospital. I do not recall.

3 Q. And did they give him a paper bag or
4 anything like that?

5 A. I don't believe so.

6 Q. What happened when the ambulance
7 arrived at the hospital?

8 A. We would have got Mr. Bennett out of
9 the back seat and escorted him to the ambulance with
10 EMS personnel.

11 Q. And did you accompany Mr. Bennett the
12 entire time he was in the hospital?

13 A. For the most part, yes, myself and I
14 believe Officer Bukavage were in the emergency room
15 just outside of his room the entire time.

16 Q. Did you observe any interactions
17 between Mr. Bennett and the doctor?

18 A. No, not that I recall.

19 Q. Do you remember observing any
20 interactions between Mr. Bennett and the nurses at
21 the hospital?

22 A. Well, yeah, I remember them speaking to
23 him. I couldn't tell you what was said.

24 Q. Okay. Do you remember if they gave him
25 anything at the hospital?

1 A. I don't; possibly a Tylenol or an
2 Advil.

3 Q. You said at some point he was given an
4 ice pack, correct, I guess?

5 A. Yes, I recall him sitting on the bed
6 holding the ice pack on his cheek.

7 Q. And do you recall if he was still
8 handcuffed at that point with the ice pack?

9 A. I do not recall. I would believe at
10 least one of his hands were taken out of the
11 handcuffs at that point. To be honest, they may have
12 both been taken off at that point for any sort of
13 medical evaluation. But, like I said, either myself
14 or Officer Bukavage were standing there the whole
15 time.

16 Q. About how long do you estimate Mr.
17 Bennett was in the hospital?

18 A. Honestly, I couldn't tell you. I know
19 it wasn't extremely long, as long as it took for a
20 doctor to examine him and say that there were no
21 injuries.

22 Q. While Mr. Bennett was in the hospital,
23 did you have any problems with him?

24 A. Me, personally, no.

25 Q. Did you have any problems with Mr.

1 Bennett while he was being transported to the
2 hospital in the ambulance?

3 A. I did not.

4 Q. After being discharged from Tyler
5 Memorial, you took Mr. Bennett to the Wyoming County
6 Correctional Facility, right?

7 A. That is correct.

8 Q. How did you transport Mr. Bennett to
9 the Wyoming County Prison?

10 A. Mr. Bennett was transported in
11 Tunkhannock Borough's police car, which was a cage
12 car, I recall. Mr. Bennett was seated in the back
13 behind the passenger seat. I rode passenger and
14 Officer Bukavage from Tunkhannock Borough was
15 driving.

16 Q. Did you or Officer Bukavage have any
17 problems with Mr. Bennett on the way to the prison?

18 A. No.

19 Q. How did you come into possession of
20 Trooper Lopez' name tag that night?

21 A. He gave it to me and told me to give it
22 to the jail along with Mr. Bennett's personnel
23 belongs.

24 Q. You said he, do you mean Mr. Bennett or
25 Trooper Lopez?

1 A. Trooper Lopez gave it to me at some
2 point throughout the night.

3 Q. Do you know how Trooper Lopez came in
4 possession of it?

5 A. Of his name tag?

6 Q. Yes.

7 A. Well, he took it off his shirt.

8 Q. Did you see Trooper Lopez give his name
9 tag to Mr. Bennett at all that night?

10 A. I don't recall that. Apparently, it
11 happened, but I personally don't recall it.

12 Q. So, you just assume Trooper Lopez had
13 his name tag the entire night?

14 A. I did, yes.

15 Q. And then I believe you testified that
16 you gave the name tag to the prison because Trooper
17 Lopez asked you to?

18 A. Correct.

19 Q. Have you ever taken off your name tag
20 and given it to somebody before during the course of
21 your duty?

22 A. I have not.

23 Q. I think I know the answer because you
24 said you didn't see it. Do you know what Trooper
25 Lopez says to Mr. Bennett when he gave him his name

1 tag?

2 A. I have no idea.

3 Q. Not counting May 12, 2017, have you
4 ever seen Trooper Lopez take off his name tag and
5 give it to somebody before?

6 A. Permanently, no.

7 Q. Has anyone ever filed a complaint
8 against you before for violating their constitutional
9 rights?

10 A. Not that I am aware of, no.

11 Q. Have you ever been the subject of a
12 Pennsylvania State Police internal affairs
13 investigation before?

14 A. No, I have not.

15 Q. Have you ever been reprimanded by your
16 commanding officer before?

17 A. Possibly received a supervisor's
18 notation for a late supplemental, but that would be
19 the extent of it.

20 Q. Do you recall how many times that might
21 have happened?

22 A. Once.

23 Q. Have complaints ever been lodged
24 against you based on your conduct as a Pennsylvania
25 State Police Trooper before?

1 A. Not that I am aware of.

2 Q. How many arrests do you think you have
3 made in your career?

4 A. Too many to count.

5 Q. And are transporting prisoners to
6 arraignments part of your everyday job as a
7 Pennsylvania State Police Trooper?

8 A. Yes, sir.

9 Q. Have you ever had to use force against
10 an individual in a courtroom before?

11 A. Not that I can recall, no.

12 Q. I am going to preface these questions
13 with the same thing I did for Trooper Lopez. It is
14 not my intent to annoy or harass you or embarrass you
15 with this but part of the way that punitive damages
16 can be calculated in a federal lawsuit, if they are
17 awarded, is based on your income, your net worth.
18 So, sir, how much --

19 MR. RONGAUS: Just note my
20 objection, since the State Police would
21 be indemnifying any --

22 MR. GRYSKEWICZ: I understand your
23 objection.

24 MR. RONGAUS: You can answer. I
25 am just saying note my objection.

1 BY MR. GRYSKEWICZ:

2 Q. How much do you make a year as a State
3 Trooper?

4 A. Base salary, honestly, I couldn't tell
5 you. With shift differential and overtime, last for
6 2018 I believe my gross total before tax was 83,000.

7 Q. And what do you estimate your net worth
8 to be, sir?

9 A. I have no idea.

10 Q. In your career, have you ever had to
11 intervene to stop another police officer from using
12 improper force against someone?

13 A. No.

14 Q. Have you ever used deadly force against
15 somebody in your career?

16 A. No.

17 Q. Have you ever used your taser against
18 somebody during your career?

19 A. No, I don't believe so.

20 Q. Have you ever had to use a baton
21 against someone during your career?

22 A. Only in training.

23 Q. Have you ever struck somebody with an
24 open hand during your career?

25 A. Not that I can specifically recall, no.

1 Q. Have you ever restrained somebody as
2 Trooper Lopez restrained Mr. Bennett on May 12, 2017?

3 A. Possibly.

4 Q. But do you remember any specific
5 incidents?

6 A. Not anything specific, no.

7 MR. GRYSKEWICZ: And if I could
8 have a moment with my client.

9 (At this time there was a brief
10 recess taken.)

11 MR. GRYSKEWICZ: I have no further
12 questions.

13 MR. COLEMAN: I just have a
14 couple, if I may.

15

16 **EXAMINATION BY MR. COLEMAN:**

17 Q. Trooper, you were interviewed as part
18 of the Pennsylvania State Police internal
19 investigation report, correct?

20 A. Correct.

21 Q. And it is my understanding that that
22 interview took place on September 12th of 2017 and at
23 that time you were assigned to the State Police
24 Shickshinny criminal investigative unit, is that
25 correct?

1 A. That's correct.

2 Q. When you were interviewed, I believe it
3 was possibly Trooper Gilhooley and there was a Mr.
4 Buczynski or Trooper Buczynski that may have
5 interviewed you. Were you under oath at the time of
6 your interview, if you recall?

7 A. I do not recall.

8 Q. I am going to ask you a couple of
9 questions from this. I am on Page 90 of the report.
10 I am going to read the paragraph verbatim and ask you
11 a question.

12 During the interview, Trooper Paduck
13 provided the following information in regards to this
14 investigation. Trooper Paduck indicated it became
15 very tense between Bennett and Plummer right from the
16 beginning of the arraignment. There was a lot of
17 arguing between Bennett and Plummer. Trooper Paduck
18 indicated he heard Trooper Lopez tell Bennett not to
19 move any closer to the Judge two times. Trooper
20 Paduck related he did not see the slap. Quote, I
21 hear a loud noise and then I look up and there is Mr.
22 Bennett screaming you just hit me, you just hit me,
23 close quote. Trooper Paduck then stated Bennett,
24 quote, started going crazy and that's when Trooper
25 Lopez grabbed him and said you need to settle down.

1 You know, I told you not to go towards the Judge.

2 Is that a fair summary of the interview
3 you provided to the State Police internal
4 investigation unit?

5 A. Yes, I believe so.

6 Q. Okay. I am going to go through just a
7 couple of sections of the interview and if I
8 reference Gilhooley, that's the interviewer, and then
9 I will give you your answer.

10 A. Okay.

11 Q. I am on Page 95 of the report. The
12 question by Gilhooley and a direct quote, Did his
13 demeanor change at all? Did he have any time to sit
14 there calmly waiting for you two? Your answer: He
15 was calm at first. Like I explained, he was sitting
16 at the Defendant's table.

17 Gilhooley: This is once you are at the
18 Magistrate's? Your answer: Once we were, yeah. So,
19 on the transport he was fine. It is only a 30-second
20 drive from our barracks to Plummer's. Once we got
21 him inside, I explained to him, you know, listen,
22 just relax. Be quiet. Don't give the Judge any
23 attitude. You don't want to make things worse for
24 yourself.

25 Gilhooley then questioned: The reason

1 that you were saying this was -- did he give you
2 reason to believe that he may not act that way? And
3 your response on the top of Page 96: Yes, just based
4 on his overall demeanor and the way he was acting in
5 the barracks and the way he was yelling, I told him,
6 you know, listen, just try to relax. Don't treat the
7 Judge like you were treating us because it is not
8 going to go well.

9 Gilhooley then says: Okay. And you
10 said: And sure enough, it happened. And Gilhooley
11 said: So, the Judge entered and -- you answered:
12 Right. I don't recall exactly what was said. I know
13 Steve's response was this is bullshit. I believe he
14 said fuck at some point. And that's when the Judge
15 lost it and started screaming at him. And right
16 after that moment, it was just very tense between the
17 two of them for the entire arraignment.

18 And Gilhooley said: Okay I am sorry,
19 go ahead, sir. And then Buczynski interposed:
20 That's okay. All right. So continue with what
21 transpired while you were at the Magistrate's office.
22 And your response was: So, the Judge screams at him
23 for a good minute or so. I would say telling him,
24 you know, don't use that language in my courtroom,
25 all that. He is sitting there. He did calm down

1 after that or at least he pretended to. He kept his
2 mouth shut. Excuse me, the Judge was doing his
3 thing, reading everything, going over the
4 arraignment. Explained to Mr. Bennett what an
5 arraignment is.

6 He got down to the end of it and
7 basically said, okay, you know, I am committing you
8 to Wyoming County jail in lieu of whatever the bail
9 was, I don't recall, and he started reading all of
10 his conditions. And as soon as he said -- Buczynski:
11 When you say you are talking bail conditions? Your
12 answer: Right, right. As soon as he said you cannot
13 contact her, I remember Mr. Bennett sitting there
14 raising his hand and he kept waving it. And I was
15 just standing on the side of the table and I am
16 watching him do this. So, I said, you know, just
17 wait, just wait one second. You know, don't
18 interrupt the Judge as he doing this, because they
19 already butted heads once. And Buczynski said:
20 Right. And then you continued and you said: So, the
21 Judge finally gets done with his spiel and says, you
22 know, what do you want? What is it? What do you
23 need? And that's when he said, well, is she getting
24 arrested? And he is, like, for what? And he said,
25 well, you said I can't contact her, but she has been

1 calling me while I was at the barracks. They don't
2 look at my phone, but she was calling me. I know it.
3 And he said, well, no, she is not getting, you
4 know -- why would -- she is not going to jail. You
5 are the one who got arrested. You can't contact her.
6 Nobody says she can't contact you.

7 And that's when he started screaming
8 with this, well, this is fucking bullshit again. So,
9 then the Judge went off and started screaming at him
10 again and Mr. Bennett just sat there and stared at
11 him and continued to start inching up. And him and
12 the Judge stayed in an argument and the Judge kept
13 yelling at him, you know, don't stare me down, all
14 that nonsense, and he kept sliding forward.

15 Trooper Lopez put his hand out and said
16 don't go any closer to the Judge. He looked at him,
17 looked back at the Judge, and started sliding forward
18 again. And he said, don't go any closer to the
19 Judge. The Judge was sitting there. He is, like,
20 are you going to sign your conditions or what? So,
21 that is when I am standing there holding my pen out
22 and it is still going on. He is not signing. I hear
23 Trooper Lopez again say don't go any closer to the
24 Judge. And I said, okay, he is not signing.

25 So, I looked down. I put my pen back

1 under my tie. And as I am doing that, I hear a loud
2 noise and I look up and there is Mr. Bennett
3 screaming, you just hit me, you just hit me, and he
4 started going crazy. And that's when Trooper Lopez
5 grabbed him and said you need to settle down. You
6 know, I told you not to go towards the Judge.

7 The Judge was screaming at him, and at
8 that point the Judge handed me all of his paperwork
9 and just said get him out of here.

10 Do you recall giving that statement?

11 A. Yes, I do.

12 MR. GRYSKEWICZ: Could you note my
13 objection.

14 MR. COLEMAN: I am not done yet.

15 BY MR. COLEMAN:

16 Q. Do you recall that interchange that I
17 just read for you from the investigative report from
18 Pages 95 to 97, do you recall giving that statement
19 to the internal affairs?

20 A. Yes, I do.

21 MR. GRYSKEWICZ: Note my objection
22 for the record and you are allowed to
23 answer.

24 MR. COLEMAN: Thank you, I have
25 nothing furthered, Trooper. Thanks so

1 much.

2 MR. RONGAUS: Just a couple of
3 questions, Trooper.

4
5 **EXAMINATION BY MR. RONGAUS:**

6 Q. After Trooper Lopez -- after you heard
7 the slap and Mr. Bennett started yelling, what was he
8 yelling, if you recall?

9 A. I recall him yelling you just hit me,
10 you just hit me. I am in restraints, typical PSP.
11 You will only hit me if I am in restraints. I do not
12 recall exactly what else.

13 Q. Okay. And then when Trooper Lopez
14 applied the restraint up around his chest and neck
15 area, do you recall if Mr. Bennett said anything at
16 that point?

17 A. Yes, he was still speaking.

18 Q. Was Mr. Bennett still speaking and
19 screaming while Trooper Lopez had him in that hold?

20 A. Yes, from what I recall, yes.

21 Q. And counsel asked you that at no point
22 did you intervene to stop what was going on; do you
23 recall that question?

24 A. Yes.

25 Q. Why? Why didn't you?

1 A. I wasn't needed to.

2 Q. And why do you believe that you weren't
3 needed to?

4 A. Trooper Lopez wasn't doing anything
5 that he couldn't or shouldn't have been doing. He
6 was calming a suspect down, keeping everyone safe.

7 Q. Was there anything in your mind that
8 led you to believe that Mr. Bennett was in any
9 distress?

10 A. No.

11 Q. Was there anything that would have led
12 you to believe that he was being choked in any way?

13 A. No, he was speaking the entire time
14 that it was occurring.

15 Q. Why is that important to you?

16 A. Because you can't be choking if you are
17 speaking.

18 Q. And after Trooper Lopez finally --
19 after Mr. Bennett finally calmed down, Trooper Lopez
20 released his hold, at any point while you were still
21 in the courtroom did Mr. Bennett complain of any
22 injury to him?

23 A. No, he did not.

24 MR. RONGAUS: I have nothing
25 further, thank you.

1 MR. GRYSKEWICZ: Just one
2 follow-up question.

3
4 **FURTHER EXAMINATION BY MR. GRYSKEWICZ:**

5 Q. Would you agree with me, Trooper
6 Paduck, that somebody would have to move forward
7 towards the table to sign paperwork?

8 A. It would depend on where they were
9 seated at the exact time.

10 Q. Would you agree with me that Mr.
11 Bennett could have been moving closer towards the
12 table and attempt to sign the paperwork prior to the
13 use of force by Trooper Lopez?

14 MR. COLEMAN: Just note my
15 objection. You could answer.

16 THE WITNESS: I don't believe so,
17 no. Mr. Bennett was given multiple
18 opportunities to sign and, as I recall,
19 stayed back like this until he stared at
20 the Judge and then started going
21 forward. (Indicating).

22 MR. RONGAUS: Indicating for the
23 record leaning back in the chair?

24 THE WITNESS: Correct.

25 MR. COLEMAN: And then forward.

1 MR. RONGAUS: And then forward.

2 THE WITNESS: This was after I
3 believe paperwork was already pulled
4 away. So, at that point there was no
5 reason to go towards the Judge.

6 MR. GRYSKEWICZ: I have no further
7 questions.

8 MR. COLEMAN: I have nothing
9 further. Thank you.

10 MR. RONGAUS: Thank you.

11

12 (At this time the deposition
13 in the above-captioned matter
14 was concluded.)

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C E R T I F I C A T E

I, Teresa Crossin, a Notary Public in and for Luzerne County, Pennsylvania, do hereby certify that the deposition was reported in machine shorthand by me, that the said witness was duly sworn/affirmed by me, that the transcript was prepared by me or under my supervision and constitutes a complete and accurate record of same.

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.



TERESA CROSSIN
KEYSTONE COURT REPORTING AGENCY, INC.
4099 BIRNEY AVENUE, SUITE 9
MOOSIC, PENNSYLVANIA 18507